

Minutes

Motion passed

Old/New Business:

Mrs. Mershon moved to adopt the Findings of Fact and Conclusions of Law in the matter of the Appeal of the Planning and Zoning Commission Approval of Variance VA-10-07; seconded by Mr. Deeds.

Mr. Hollins explained that the Findings of Fact and Conclusions of Law notes that the original variances requested were to allow a parking area of less than 15 feet from the ROW, to allow the structure within the front and side yard setbacks and to allow a structure greater than 40 feet in height. The revised plans demonstrated that the variances for the parking and side yard setbacks were no longer necessary. The Public Hearing went forward on the other variances and they were approved for building height and front yard setback. There was an appeal filed for the height variance. The decision states that the code criteria for the variances and applies these to the height variance and Council determines that the appellants in this matter have met their burden in showing that the only special circumstances that exist result from the applicants own decision to use a pitched roof that exceeds the height requirements. It was also found that it will confer to the applicant an undue privilege. Therefore, on appeal, Council denies the application of Wagenbrenner Development and NRP for a variance to allow a three-story, 42 foot structure on the former Davis Paints site.

VOTE:	AYES	Dr. Bender, Mrs. Turner, Mrs. Mershon, Mr. Donahue Mrs. Rush-Ekelberry, Mr. Deeds, Mr. Wynkoop
	NAYS	
		Motion passed

Quick recess was taken so residents could leave, should they so choose.

Communications & Petitions:

A letter was received from Columbia Gas of Ohio regarding their annual filing with the PUCO and their application to increase the collection through the "Rider IRP" which will mean an approximately \$1.10 per month increase for residential customers and a \$.33 per month increase to residential customers for the "Rider DSM" proposed increase.

A notice was received from the Franklin County Board of Elections of the passage of the Charter Amendments at the November 2, 2010 election.

A letter was received from Mike Ippoliti of the Canal Winchester Area Historical Society, Inc. thanking Council for their donation and providing detailed documentation of funds usage. (Documentation is available from Finance Director)

A copy of Notice of Briefing Schedule was provided to the parties in the matter of the Appeal of Variance VA-10-07.

A memorandum in Support of the Appeal of the Variance VA 10-07 was received from Michael Stobart, John Stedman, and Kim Stedman

The applicant's Reply Brief was received from Jeffery L Brown, Smith & Hale, LLC on behalf of Wagenbrenner Development and The NRP Group, LLC.

Comments were received from Don Corbett regarding the appeal of Variance VA 10-07.

Village Residents Comments:

Five-minute limit per person

Michael Stobart, of 15 E Columbus Street, thanked Council for their decision and for listening to the concerns of the citizens. He wanted to address the property owned by the Village at 15 S Trine Street that was purchased for \$80,000. It was included in the preliminary drawings and it was his understanding that there was option to purchase entered into with Wagenbrenner Development on October 12th, 2010 for \$500 conditional upon Council's approval. It would be unconscionable and a waste of tax payers money for the Village to sell this property for such an insignificant price to a for-profit company. We are formally requesting that the Council take action to disapprove the option to purchase the Trine Street property, or if they are planning to do so, do it quickly so it can be put on the May ballot. The citizens desire that that property be pulled from the development list.

Patrick Shea, of 6549 Hilliard Drive, has been a village resident for 9 years and has concerns with the purchase agreement for the Trine Street property owned by the Village. He researched the ORC and found it odd that the purchase price of \$500 was just under the threshold of ORC 721.15 which says that a property of less than \$1000 doesn't have to go out for bid. It could not have depreciated from \$80,000 to \$500 that quickly. ORC 721.03 states that the purchase would have to be in the papers for at least 5 weeks in the newspapers before being done, giving others the opportunity to bid.

Mr. Hollins clarified that the ORC sections apply if you did not have a charter. As a Charter municipality, we have Charter authority to convey property. The \$500 reference was both monetary and non-monetary. The \$500 was just to hold the ground and the consideration was to add additional public parking. If you look closely, the intent was never to have the transaction preformed unless all site plan and building approval was achieved. We will have to see what Wagenbrenner's plans are for the future of this project.

Joe Messerly, of 255 E Waterloo Street, asked if Wagenbrenner could force the Village to sell that property. Mr. Hollins clarified that it was a contingent agreement that will remain contingent until approval by ordinance.

As a realtor, Mr. Messerly is held to the cannon of ethics. Section 1, Article 6 it states that the licensee should be notified as to matters affecting real estate in the community, state and nation, so that licensees may be able to contribute to public thinking on matters such as land use and city planning. He asked who was consulted on this property. If something is developed there the real estate agents must disclose that the property is a low-income senior housing. If those statements are not revealed, it could be construed as fraud. Buyers of any homes in the area would have to be told about the apartment complex.

Kim Stedman, of 38 E Columbus Street, understands that the Canal Kitchen property is being used for extra parking for the Senior Center. If those spaces are lost and replaced with 56-59 spaces, there is not an overall addition of 50-59 spaces. Only 20 or so spaces are being added. That would not make good sense.

Mr. Hollins offered to show her the parking analysis and let her speak to Mr. Dutton for more information.

Cyndi Lynch, of 27 E Columbus Street, thanked everyone for their decision. She asked about the Charter Authority and Mr. Hollins clarified. She also requested that our Planning and Zoning be tightened up like it is in the Violet Township overlay.

Mr. Strayer noted that the overlay district incorporates the Violet overlay. Mr. Hollins asked if we have a plan for downtown land use. It is a good idea. Mrs. Lynch noted that a consultant was hired to tighten up the Meijer area and maybe it should be looked into hiring one for the downtown area.

Mrs. Mershon asked that Mayor Ebert express to Council and the citizens how he feels about the project.

Mayor Ebert stated that we have had two other similar projects come into this area that have been denied variances. He didn't see that there was a necessity to grant this variance. He believes that the vote tonight was the right thing.

Mark Miller, 22 W Mound Street, made a public apology to the room for the disrespect that he showed to the room on December 6th. He is an advocate for civility in government. His comments were unconstructive and he is remorseful for the example that was set for the youth in attendance. It came from a place of frustration. He believes that this is worth going to court over, should it come to that. He gives the benefit of the doubt with regards to the sale of the property. He knows it will not be saleable after the project and commends the Village for trying to get public parking out of the deal. He understands that the Village has put a lot of thought and effort into this process. He asks if anyone has thought about the Village purchasing the property. He would support the taxes needed to purchase the property and use it in an appropriate way. He thanked everyone for their sincere efforts and well-considered actions.

Julie Struble, of 257 Groveport Pike, thanked Council for the vote this evening. Sometimes people get the feeling that the government leaders don't listen, but in this case, they did listen. She doesn't agree with the scope of the building. She objected to the 42' height and still objects to the 40' allowance. She lives across from David's Way and sees ambulances go in there almost daily. There isn't room for them to be in and out of this building.

Ross Stedman, of 18 E Mound Street, asked about the options of the Village and residents to obtain the property. Mr. Hollins states that it would be completely up to Council should it come out of contract.

Pat Lynch, of 27 E Columbus St, thanked Council and realized that we should be proud of the residents of this community. They want to be informed and be involved in this community. There is plenty of low-income senior housing, what we don't have is market rate senior living. This type of senior living should be considered. It is needed and would be welcomed.

ORDINANCES:

THIRD READING

Sponsor: Mr. Wynkoop

O-10-11B AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO THE
WASTEWATER SERVICE AGREEMENT WITH THE VILLAGE OF LITHOPOLIS

Mr. Wynkoop read the ordinance. Mr. Deeds moved to table the ordinance until 1-18-11; seconded by Mr. Wynkoop.

VOTE: **AYES** Dr. Bender, Mrs. Turner, Mrs. Mershon, Mr. Donahue
Mrs. Rush-Ekelberry, Mr. Deeds, Mr. Wynkoop

NAYS

Motion passed

SECOND READING

Sponsor: Mr. Donahue

O-10-12B AN ORDINANCE TO AMEND THE 2010 APPROPRIATION ORDINANCE 61-09
Amendment #5

Mr. Donahue read the ordinance and moved to suspend the rules; seconded by Mrs. Mershon.

VOTE: **AYES** Dr. Bender, Mrs. Turner, Mrs. Mershon, Mr. Donahue
 Mrs. Rush-Ekelberry, Mr. Deeds, Mr. Wynkoop

NAYS

Motion passed

Mr. Donahue moved to approve Ordinance 48-10; seconded by Dr. Bender.

VOTE: **AYES** Dr. Bender, Mrs. Turner, Mrs. Mershon, Mr. Donahue
 Mrs. Rush-Ekelberry, Mr. Deeds, Mr. Wynkoop

NAYS

Motion passed

Sponsor: Mrs. Rush-Ekelberry

O-10-12C AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO A CONTRACT
FOR INDIGENT DEFENSE REPRESENTATION IN THE FRANKLIN COUNTY
MUNICIPAL COURT AND THE CANAL WINCHESTER MAYORS COURT FOR THE
CALENDAR YEAR 2011 WITH THE FRANKLIN COUNTY PUBLIC DEFENDER.

Mrs. Rush-Ekelberry read the ordinance; second reading only.

FIRST READING

Sponsor: Mr. Donahue

O-10-12A AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO A CONTRACT
WITH QUALITY CONTROL INSPECTION, INC. FOR CONSULTING SERVICES
RELATING TO CONSTRUCTION INSPECTION FOR THE PERIOD FROM
FEBRUARY 1, 2011 THROUGH FEBRUARY 1, 2013.

Mr. Donahue read the ordinance; first reading only.

Sponsor: Dr. Bender

O-10-12D AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO A FUNDING
AGREEMENT FOR THE FRANKLIN COUNTY EDUCATIONAL COUNCIL FOR THE
KIDS CONNECT PROGRAM FOR THE CALENDAR YEAR 2011 IN THE AMOUNT OF
\$15,000.00.

Dr. Bender read the ordinance; first reading only.

Sponsor: Mrs. Mershon

O-10-12E AN ORDINANCE TO AMEND CHAPTERS 1131 (GENERAL PROVISIONS), 1135 (ADMINISTRATION, ENFORCEMENT, AND PENALTY), AND 1137 (PLANNING AND ZONING ADMINISTRATOR) OF THE CODIFIED ORDINANCES OF THE VILLAGE OF CANAL WINCHESTER WITH ADDITIONAL AMENDMENTS TO SECTION 1133.02 (GENERAL DEFINITIONS), SECTION 1133.03 (DEFINITIONS), SECTION 1141.12 (ENVIRONMENTAL ANALYSIS), SECTION 1181.05 (PORTABLE STRUCTURES), SECTION 1189.12 (VIOLATIONS, PENALTIES AND REMEDIES), SECTION 1191.06 (WOODLANDS), SECTION 1196.16 (PUBLIC RIGHT OF WAY CONSTRUCTION STANDARDS), AND SECTION 1196.17 (OBSTRUCTION OF RIGHT OF WAY) OF THE CODIFIED ORDINANCES OF THE VILLAGE OF CANAL WINCHESTER

Mrs. Mershon read the ordinance; first reading only.

Sponsor: Mr. Deeds

O-10-12F AN ORDINANCE TO AWARD THE CONTRACT FOR THE WINCHESTER VILLAGE FORCE MAIN REPLACEMENT PROJECT TO PRECISE BORING OF OHIO IN THE AMOUNT OF \$19,146.50 AND DECLARING AN EMERGENCY

Mr. Deeds read the ordinance, moved to suspend the rules and declare an emergency; seconded by Mrs. Turner.

VOTE: **AYES** Dr. Bender, Mrs. Turner, Mrs. Mershon, Mr. Donahue
 Mrs. Rush-Ekelberry, Mr. Deeds, Mr. Wynkoop

NAYS

Motion passed

Mr. Deeds moved to adopt Ordinance 49-10; seconded by Mrs. Mershon.

VOTE: **AYES** Dr. Bender, Mrs. Turner, Mrs. Mershon, Mr. Donahue
 Mrs. Rush-Ekelberry, Mr. Deeds, Mr. Wynkoop

NAYS

Motion passed

Sponsor: Mrs. Turner

O-10-12G AN ORDINANCE TO AWARD THE CONTRACT FOR THE INFLUENT RAW INFLUENT PUMPS AND BAR SCREEN REPLACEMENT PROJECT TO DOW CONSTRUCTION CORPORATION IN THE AMOUNT OF \$411,359.00 AND DECLARING AN EMERGENCY

Mrs. Turner read the ordinance, moved to suspend the rules and declare an emergency; seconded by Dr. Bender.

VOTE: **AYES** Dr. Bender, Mrs. Turner, Mrs. Mershon, Mr. Donahue
 Mrs. Rush-Ekelberry, Mr. Deeds, Mr. Wynkoop

NAYS

Motion passed

Mrs. Turner moved to adopt Ordinance 50-10; seconded by Mr. Wynkoop.

VOTE: **AYES** Dr. Bender, Mrs. Turner, Mrs. Mershon, Mr. Donahue
 Mrs. Rush-Ekelberry, Mr. Deeds, Mr. Wynkoop

NAYS

Motion passed

Sponsor: Mr. Wynkoop
O-10-12H AN ORDINANCE TO AWARD THE CONTRACT FOR THE INFLOW AND INFILTRATION REMOVAL PROJECT TO INLAND WATERS POLLUTION CONTROL INCORPORATED IN THE AMOUNT OF \$619,690.00 AND DECLARING AN EMERGENCY

Mr. Wynkoop read the ordinance, moved to suspend the rules and declare an emergency; seconded by Mrs. Mershon.

VOTE: **AYES** Dr. Bender, Mrs. Turner, Mrs. Mershon, Mr. Donahue
 Mrs. Rush-Ekelberry, Mr. Deeds, Mr. Wynkoop

NAYS

Motion passed

Mr. Wynkoop moved to adopt Ordinance 51-10; seconded by Mrs. Turner.

VOTE: **AYES** Dr. Bender, Mrs. Turner, Mrs. Mershon, Mr. Donahue
 Mrs. Rush-Ekelberry, Mr. Deeds, Mr. Wynkoop

NAYS

Motion passed

Mayor's Report:

Dr. Bender moved to accept the Report of the Clerk of the Mayor's Court for November 2010; seconded by Mrs. Mershon.

VOTE: **AYES** Dr. Bender, Mrs. Turner, Mrs. Mershon, Mr. Donahue
 Mrs. Rush-Ekelberry, Mr. Deeds, Mr. Wynkoop

NAYS

Motion passed

Please see the written report.

Fairfield County Sheriff:

Sgt. Kern noted that accidents have been up with all of the snow. The thefts are up due to the holiday season as well. He read his report.

Village Solicitor:

Mr. Hollins thanked everyone for the holiday sweets this evening. He requested an executive session to discuss a quasi-judicial matter; re: the Bakitis appeal.

Finance Director:

The financial statement for the period ending November 30, 2010 was included with the packet. She has been meeting with several auditing firms and the State Treasurer's office so that bids can be prepared for our auditing for the next four years.

The end of year is keeping things busy in the Financial Department.

She believes that we will be a little short on income taxes estimate, but that is tempered with other areas that are significantly above estimate. The General Fund should finish in a good position.

Public Works Director:

OPWC has approved the application for the Gender Rd Phase II project that runs from 33 to Lehman Road. This is in conjunction with an ODOT safety grant. In total \$4.1 million is covered of the project. Design will start in 2011 and go forward in 2012.

Also, the Gender Rd phase I project is finalized in design and will go out to bid in early 2011. Fall street tree planting is complete and 84 trees are planning on being planted in the spring.

Positive effects of the grease ordinance have begun to show. Lower levels of grease are reducing maintenance.

Snow removal continues and leaf removal is finished.

Road repairs at old Ashbrook Road will be done.

The aerator project is at the EPA for permit to install application.

A postal employee notified staff of a water leak at a vacant house and we were able to get inside and turn off water and notify the property owner.

Mrs. Mershon asked about the ending of the sidewalks at McDorman's south entrance. Mr. Peoples noted that they will not connect to the bridge due to safety concerns with travelling across the access lanes to 33. Discussion ensued as to whether it makes sense to put sidewalks in front of Bob McDorman.

Development Director:

Manifold and Phalor is in full swing and had their grand opening. They have job descriptions out there and looking to bring employees in. We are also working on another project with them for transporting heavy equipment across the country.

An application was received from Staples to build at Waterloo Crossing.

Community Affairs Director:

Breakfast with Santa was held on December 11th. Two sessions were held and all proceeds were donated to Canal Winchester Human Services.

Employee Appreciation party will be January 8th at Shades Restaurant.

Council Reports:

Old Town Committee

Monday, January 10, 2011 at 5:45 PM

Finance Committee

Monday, February 7, 2011 at 5:45 PM

Service Committee

Tuesday, January 18, 2011 at 5:45 PM

- We need to go look at the wording in the code regarding the residential / commercial in downtown area.

Safety Committee

Wednesday, January 5, 2011 at 9:00 AM – 36 S High St - LLCR

Public Hearing

Monday, January 3, 2011 at 6:30 PM – Collier Appeal

Public Hearing

Tuesday, January 18, 2011 at 6:30 PM – Zoning Code Amendment

CW Joint Recreation District Representative

- 2011 budgets were submitted with increases in sports fees due to the levy failure.

CW Human Services Representative

- 95 families were adopted and provided food and gifts this year.
- Church choirs and school personnel put on a concert as a benefit as well.

Main Street Canal Winchester Representative – Nothing to report

Canal Winchester Industry & Commerce Corporation Representative

- Will meet again after the first of the year

Adjourn to Executive Session:

Dr. Bender moved to adjourn to Executive Session; seconded by Mr. Deeds.

VOTE: **AYES** Dr. Bender, Mrs. Turner, Mrs. Mershon, Mr. Donahue
Mrs. Rush-Ekelberry, Mr. Deeds, Mr. Wynkoop

NAYS

Motion passed Time out – 8:20pm Time In – 9:00pm

Adjournment:

Mr. Donahue moved to adjourn the meeting; seconded by Mrs. Turner

VOTE: **AYES** Dr. Bender, Mrs. Turner, Mrs. Mershon, Mr. Donahue
 NAYS Mrs. Rush-Ekelberry, Mr. Deeds, Mr. Wynkoop

Motion passed. Time out 9:02pm

Clerk of Council

President of Council

Date

Mayor

NOTE: The minutes set forth herein are an extract of the Council meetings. Anyone desiring a transcript of the complete minutes of the Council meeting may obtain the same at a cost of \$10.00 per page.